REDUCING CRIME AND IMPROVING CRIMINAL JUSTICE IN BRITISH COLUMBIA: RECOMMENDATIONS FOR CHANGE

Summary of Recommendations

Recommendation 1:

The provincial government should create, in partnership with the federal and municipal governments, an agency or other body such as a Criminal Justice Task Force or a Criminal Justice Commission to address the core issues and challenges facing the provincial criminal justice system, especially the effective coordination of the activities of the relevant government ministries.

The roles and functions of the Task Force or Commission should include the following:

(a) To review and resolve the three core problems facing the provincial criminal justice system that are identified in Part III of this report. Particularly, and as a matter of priority, the following issues:
- sentencing practices in the British Columbian courts
- the need for Crown Counsel to approve charges
- the delays involved in disposing of cases in the Provincial Court;

(b) To monitor, advise, and make recommendations on the coordination of all the components of the criminal justice system and the associated provincial ministries, federal departments, government agencies, Crown Corporations, non-government organizations, and private sector companies involved, in particular, in the fields of private security and crime prevention;

(c) To initiate and fund independent research on crime and the criminal justice system from which to develop evidence-based policy for the affected ministries and other organizations including, studies of the rates of victimization in the province and of the performance of the components of the criminal justice system, especially the police, Crown Counsel, the judiciary and corrections.

The choice of body or agency will depend upon whether government wants to create a temporary or a more permanent entity that will play a continuing role monitoring the criminal justice system. If a temporary body is thought to be sufficient then a Task Force with a prescribed life span is probably preferable. A Criminal Justice Commission would involve a more permanent arrangement and could be something to be considered by a temporary Task Force.

The idea of a Commission is not new insofar as Commissions of this kind exist in other jurisdictions, primarily in some states in the United States and Australia and even at the municipal level in the former. The mandates of the Commissions vary – some have the kind of broad role and function recommended above while others are concerned solely with specific criminal justice issues such as organized crime – but the Oregon Criminal Justice Commission seems to be closest, philosophically, administratively, and geographically. If the idea of a similar Commission for British Columbia finds fertile soil it is strongly recommended that the developmental starting point be the Oregon Commission.

The organization and membership of a British Columbia Crime and Criminal Justice Commission should be determined only after appropriate research into similar organizations in other

jurisdictions and following local consultation. However, the Commission would likely consist of key, senior individuals from within the provincial government, federal criminal justice agencies, and the community, appointed by Order in Council for fixed but renewable terms and accountable to the legislature. The Commission should be provided with a budget, some modest premises and a small secretariat, and have a carefully prescribed mandate.

Boards and Commissions exist to address a variety of areas of practice and policy-making in the province, and a Crime and Criminal Justice Commission is probably long overdue. It should be noted that the idea seems to be viewed favourably by some individuals who were asked about this recommendation, albeit late in the consultation process.

It will clearly take some time for the idea of a Commission to be discussed and for a Commission to be set up. In the interim, there are a number of crime and criminal justice system issues that need to be addressed without further delay.

Recommendation 2:

The provincial government must address the problem of the illegal trade in drugs in a clear and consistent manner.

In this regard, there are only three real choices. The following identification of three options should not be read as an endorsement of any one by the BC Progress Board. It is merely a statement of the options.

(a) Lobby the Federal Government to legalize the trade, perhaps limiting access to the products to adults in the same way that tobacco and alcohol access is limited and, in the same vein, treating drug addictions as health rather than criminal justice problems. The trade would be subject to reasonable taxes that could be directed to the health care system. The outcome of such a move is not entirely clear but, arguably, it is unlikely to produce higher levels of demand, and need, than is currently the case. Illegal drugs are being obtained by those who wish to use them, regardless of the prohibition. Importantly, the cost of meeting the health care needs of addicts would be paid for by revenues gathered from the industry that is, in part, responsible for the addiction. This kind of initiative would undoubtedly reduce the size and impact of a significant component of the province's underground economy which likely employs, directly and indirectly, a large number of people and reduce the size, and impact, of the proceeds of crime that are currently circulating in the economy. In addition, criminal justice resources that are currently directed to drug enforcement activities could be directed elsewhere.

(b) In the event the legalization approach is deemed unacceptable (or impractical), and there are many reasons why it is likely to meet with massive resistance both nationally and internationally, the provincial government should provide the resources necessary to eliminate the trade entirely in the province. As the costs of doing business rise dramatically (and this should be the goal of enforcement activities) the industry will probably move elsewhere. Demand for the industry's products will not decline but the collateral criminal activities associated with the industry will likely diminish signifi-

cantly. This approach will require a number of indispensable components:

- a consistent and planned commitment of significant law enforcement resources for up to 10 years;
- expanded, specially trained law enforcement teams;
- new legislation to deal with the proceeds of crime and money laundering activities (particularly, legislation regulating currency exchange businesses);
- coordinated prosecution efforts involving special Crown Counsel;
- the imposition of severe penalties for drug related crimes; and,
- a carefully planned response on the part of both federal and provincial correctional services that will face a dramatically increased demand for secure correctional facilities.

The illegal trade in drugs is the bailiwick of criminal business organizations which, like any other business, are driven by a profit motive. If the costs of doing business increase dramatically and profitability declines, the organizations will likely shut down or move elsewhere. The costs of doing business will increase, and the benefits decrease, if the likelihood of arrest, conviction and significant punishment (including simple incarceration for long periods) are increased, the proceeds of criminal activity are confiscated, and opportunities to conceal or launder those proceeds are diminished or eliminated.

(c) Consideration should also be given to a combination of options (a) and (b) over time, beginning with option (b): vigorous enforcement for a 10 year period aimed at removing criminal business organizations from the illegal drug trade. This should be followed by a stepped introduction of option (a) – decriminalization – once the illegal drug trade is no longer in the hands of criminal business organizations in the province. This option should also include a comprehensive and continuous public education program to reduce the use of, and therefore demand for, drugs that clarifies, rather than glorifies, the role and impact of criminal business organizations.

These are the choices, one of which must be adopted by the provincial government without delay. The *status quo*, of course, is another option, but this is clearly not acceptable if we seek to truly reduce the rates of crime and victimization in the province.

Recommendation 3:

The collateral effects of the illegal drug trade should be addressed without further delay.

This issue has been examined extensively over the past 10 years, the options have been debated, plans have been made and the direction has been set; it is now time for action. Clearly, the Four Pillars Approach, while not without its critics, has been embraced for Vancouver where the problem is particularly acute. Since the problem now seems to be beyond Vancouver it is probably time to expand the approach to the entire province. This will require a commitment of provincial resources but, hopefully, not for a long time.

In support of the Four Pillars Approach, and particularly the law enforcement pillar, it is recommended that the province review and strengthen the *Safe Streets Act* and the *Trespass Act* to give police more power to remove troublesome individuals from public and private places. At the same time, government should provide for appropriate shelter and other support services. The government should also consider the introduction of a statute that provides for the compulsory treatment of those with addictions who decline assistance on a voluntary basis. This legislation would be analogous to the kinds of compulsory treatment provisions in existing provincial legislation notably the *Mental Health Act*, the *Health Act*, and the *Venereal Diseases Act*, and an argument can be made for the issue to be addressed through an amendment to the *Health Act* rather than by creating an entirely new statute. Obviously, there are clear precedents for this kind of statute and it is noteworthy that, in the 1970s, the province enacted a *Heroin Treatment Act* with a similar goal in mind. This Act was subsequently repealed because the need diminished. Legislation of this kind will only be necessary as a last resort and will only work if effective community based treatment facilities and resources are provided.

Other important initiatives worthy of implementation are the following:

- the provision of "wraparound" health and social services perhaps through the establishment of one or more Community Courts as recommended by the Street Crime Working Group;
- provincial and/or municipal legislation that provides for tight regulation of businesses trading in second hand (often stolen) goods; and,
- a reconsideration of the need for safe or secure care legislation to deal with young people and young adults who are choosing to live on the streets and who are often involved in crime, substance abuse and related activities.

The Four Pillars Approach is generally sound but, arguably, there needs to be a better balancing of carrots and sticks and, most of all, there needs to be some action.

Recommendation 4:

The provincial government should immediately review the need for strengthened services to address childhood development issues and move quickly to introduce those services.

Clearly, existing health and social services that address childhood development issues are not adequate at this time. Fetal Alcohol Spectrum Disorder (FASD) has emerged as a significant issue, especially in Aboriginal communities, and may be linked to criminal behaviour in both youth and adults. There are probably similar problems with the children of drug addicted women although the effect of drugs ingested during pregnancy is not as clear. The province needs a system of early detection of children with problems, not just FASD related problems, through the elementary school system, and appropriate coordinated early intervention strategies and services provided by the Ministries of Health and Children and Family Development. The Ministry of Children and Family Development should take the lead role in developing and/or strengthening their plans to address this issue.

Recommendation 5:

The provincial government should, without delay, review the organization and functions of law enforcement agencies in the province.

Particular attention should be paid to four main issues:

- The regionalization of police services in the two main metropolitan areas: Vancouver and Victoria. The current situation is, to put it mildly, bizarre, and the topic surfaces for serious discussion about once every five years. The situation was last addressed in the 1998 Oppal Report on policing in the province and this report appears to have resulted in some changes in the form of "functional" integration: the creation of cross departmental teams such as IHIT (the Integrated Homicide Investigation Team). At best, and without detracting from the excellence of the work of these groups, this approach has limitations including a continuation of rivalries and tensions between municipal police departments and the RCMP. The creation of two or three regional police services (Capital Regional, Greater Vancouver Regional, Fraser Valley Regional) would be the preferred route and it would be popular amongst most affected police officers, other than some RCMP officers who seem to prefer a single, province-wide police service run entirely by their organization. In fact, the only stumbling block appears to be some local governments in the affected regions who, for political reasons, oppose the change. The reform, therefore, will have to be a provincial government initiative.
- The implementation of initiatives that are often referred to as "Operation Cooperation". This involves the creation of functional partnerships between public police services and private security services that, as a recent Law Commission of Canada report has indicated, have been growing significantly over the past 20 years and that have become private police forces performing many of the traditional police functions such as fixed point observation and limited patrolling. Operation Cooperation is a term coined by the U.S. Department of Justice which supports public-private partnerships in the field of policing. The core premise is simple. Instead of being separate and often conflicting entities, the reality of public/private policing is acknowledged. The resources of the two groups are combined in a more effective way with a common goal of reducing crime through general deterrence created by both visible presence and announced electronic surveillance (Closed Circuit Television or CCTV), fast responses to calls involving the security of property, and a willingness to arrest offenders seen committing crimes even when the target is not the property being protected by the private security service. While the challenges are numerous, the potential is enormous and it is significant that the Downtown Vancouver Business Improvement Area has already started its own version of Operation Cooperation, with some good results.
- A review of both the activities of police and their internal organization to determine whether law enforcement dollars are being spent in most cost effective way. The provincial government should develop a set of best practice guidelines based upon the extensive national and international research on policing styles and techniques and determine,

amongst other things, whether police resources are being diverted by the need to perform duties that could be performed by others at less cost. Key examples would be the offender identification function which could be turned over to non-sworn members; fingerprint and forensic examinations at the scenes of crime which might be better undertaken by technically proficient, non-sworn, scenes of crime examiners; and, the use of process servers, rather than uniformed police officers, to service subpoenas and other documents. A review should also consider whether the community relations activities that take police away from active street duty are worthwhile and whether police crime prevention activities should be handed over to private sector businesses for which crime prevention officers often appear to be acting as salespersons.

- Carefully monitor the success or otherwise of crime reduction strategies being implemented in other countries and by the RCMP at select sites in British Columbia. If evidence indicates that these strategies are successful in reducing crime they should be systematically deployed across the province.

BCPROGRESSBOARD

News Release
For Immediate Release
2006-11-15

BC Progress Board Releases Discussion Paper on Crime and Criminal Justice in British Columbia

Vancouver, BC – The BC Progress Board released a discussion paper today on crime and criminal justice in British Columbia. The paper, *"Reducing Crime and Improving Criminal Justice in British Columbia: Recommendations for Change"*, was prepared for the Board by Dr. Robert Gordon, Director of the Simon Fraser University (SFU) School of Criminology, with assistance from Dr. Bryan Kinney, Assistant Professor of Criminology at SFU. The document surveys the state of crime, criminality and criminal justice in British Columbia and provides strategic recommendations with options to make further reductions in provincial crime rates.

"The Progress Board has been concerned for some time with BC's apparent poor performance on crime indicators relative to the Canadian average and most other provinces", stated David Black, Chair of the BC Progress Board and President of Victoria-based Black Press Ltd. "The report is a timely effort to assess crime and criminality in British Columbia and to offer some options for all orders of government to consider", Black continued.

British Columbia's relative position within Canada is improving on all major crime categories, including violent, property and other crimes, but still lags behind the Canadian average on all major categories.

Other selected highlights include:

- BC's 2005 homicide rate of 2.3 per 100,000 population is slightly above the national rate of 2.0, but below Manitoba (4.2), Saskatchewan (4.3), Washington (3.3), and Oregon (3.0).
- BC has higher rates for property offences than most other provinces, along with the US states of Washington and Oregon.
- BC's robbery rate is well above Oregon State at 109 versus 68 per 100,000 population, but is similar to Washington State's rate of 92.
- In 2005, Vancouver posted a reduction in break and enters, while robbery rates have declined but remain firmly above other provincial and national Census Metropolitan Area (CMA) rates.
- Crime rates for Vancouver and Victoria CMAs reflect, for the most part, provincial trends, with 29 and 21 percent reductions in the property crime rate respectively since 1995, compared with a national reduction of 25 percent during the same time period.
- Among major CMA's in Canada, Vancouver improved the most in the auto theft category between 2004 and 2005, posting a 25 percent reduction.
- In 2005, Vancouver CMA and Seattle Metropolitan Statistical Area (MSA) posted identical homicide rates of 2.9 per 100,000 population.
- Aboriginal rates of victimization and involvement in criminal proceedings are notably higher than for non-Aboriginals, reporting almost three times as many victimization experiences as non-Aboriginals (31,900 versus 10,100 incidences per 100,000 population).

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- Public opinion polls taken between 1997 and 2006 show that British Columbia and other western provinces view crime as more of a problem than eastern provinces, with property crime being the top-of-mind source.

"Overall British Columbia has improved in many key measures of property and violent crime offences", noted Dr. Robert Gordon. "Making further sustained progress requires concerted efforts to identify and tackle the primary causes of crime, while identifying and correcting inefficiencies in the provincial criminal justice system that may inadvertently contribute to criminal activity", Dr. Gordon continued.

The report identifies four primary causes of crime in British Columbia:

- Widespread substance abuse (both drugs and alcohol) and the activities of criminal business organizations involved in the illegal drug trade that, in part, feeds substance abuse;
- Defective or deficient childhood development practices;
- Mental disorder, including cognitive impairments such as brain injuries and fetal alcohol spectrum disorder; and,
- Impoverished and unstable lifestyles experienced by many individuals living in inner urban areas, many of whom are chronic repeat offenders addicted to drugs and alcohol.

The report cites three primary clusters of problems within the criminal justice system:

- The apparent failure of the criminal justice system to ensure that offenders face the consequences of their behavior (e.g. failure to hold offenders to account for breach of probation and other orders; failure to appropriately supervise those sentenced to community-based dispositions or those granted conditional sentences; and, lenient sentencing in BC relative to other jurisdictions).
- Failure to guarantee speedy and fair disposition of cases once an offender is identified and to ensure that justice is swift, sure and effective (e.g. processing of offenders from arrest to final court disposition is cumbersome and bureaucratic especially with respect to the charge approval process and the number of provincial court appearances it takes to conclude a case).
- Inter-agency and Inter-ministry barriers and disorganization, especially with respect to the interaction of the criminal justice system with related systems such as health and social services.

"Our review for the BC Progress Board found common ground amongst experts consulted on the primary causes of crime on the one hand, and where the main problems within the criminal justice system exist on the other", noted Dr. Robert Gordon. "To confront these challenges, the report makes five strategic recommendations with options for all orders of government to consider," Dr. Gordon continued. "Efforts to tackle BC's crime and criminal justice system will require an ongoing, consistent and highly-coordinated effort", Dr. Gordon concluded.

The BC Progress Board, formed by Premier Gordon Campbell in July 2001, is an independent Panel of 18 senior business and academic leaders. The Progress Board benchmarks BC's performance on measures of economy, innovation, education, environment, health and social condition over time and relative to other jurisdictions. The Board also advises on ways to improve performance.

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BC**PROGRESS**BOARD

December 5, 2006

Hon. George Abbott
Minister of Health
Shuswap, MLA
Parliament Buildings
Victoria, BC V8W 9E2

Dear Mr. Abbott: Minister:

I am pleased to forward you a copy of a new BC Progress Board discussion paper on public education in British Columbia entitled: *"Working Together to Improve Performance – Preparing BC's Public Education System for the Future"*.

By way of background, the BC Progress Board is an independent panel of 18 senior business and academic leaders established by Premier Gordon Campbell in July 2001 to competitively benchmark BC's economic, innovation, education, environment, health and social performance over time and relative to other jurisdictions. The Board also provides advice on ways to improve performance.

If you have any questions, please contact me at the coordinates below or by e-mail at: Tim.McEwan@gov.bc.ca

Yours sincerely,

Tim McEwan
Executive Director

TMM/mb

Encl.

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